

REMARKS

Claims 1 and 16 have been amended. Claim 3 has been canceled. Claims 17 and 18 have been withdrawn from consideration. The Specification and Fig. 1 of the drawings have been amended. No new matter has been added. Thus, claims 1-18 remain pending in the present application. In light of the above-noted amendments and the following arguments, it is respectfully submitted that all of the presently pending claims are in condition for allowance.

At the Examiner's request, a new declaration in compliance with 37 C.F.R. 1.67(a) is enclosed herewith.

The Specification is objected to as containing informalities. Paragraph [0019] of the Specification has been amended to clarify the location of the trim part of the present invention relative to the airbag module. Specifically, amended paragraph [0019] recites a trim part "which forms part of an instrument panel and behind which an airbag module is arranged." Paragraph [0023] of the Specification has also been amended as requested by the Examiner to recite "[on] the left side of FIG. 1, thus in the travel direction of the vehicles, the inlay 10 projects beyond the edge 7 of the through-opening 5." In light of these amendments, Applicants respectfully request that the objection to the Specification be withdrawn.

The drawings stand objected to under 37 C.F.R. § 1.83(a) as not showing every feature of the claims. Figure 1 of the drawings has been amended to incorporate the limitation of "the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer," as recited in claims 1 and 16. Specifically, the inlay 10 has been amended to incorporate portions that, as indicated in the Specification, are penetrable by a foam. (*See Specification, ¶ [0008], [0028]*). Furthermore, the Examiner has indicated that the "intermediate layer" recited in claim 1 does not appear to be intermediate. (*See 2/3/09 Office Action, p. 4*). However, it is respectfully submitted that the intermediate layer is clearly shown in the amended Figure 1 and is also described as being formed between the surface decor and the carrier and airbag. In light of these

amendments, Applicants respectfully request that the objection to the drawings be withdrawn.

Claims 1-16 stand objected to under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement. Specifically, the Examiner has indicated that it is unclear what is disclosed and shown to be the “intermediate layer” and the “inlay applied to the intermediate layer” such that the foam of the intermediate layer at least partly penetrates the inlay. (See 2/3/09 Office Action, p. 5). It is respectfully submitted that the aforementioned amendments to the drawings incorporating a fibrous/porous portion as recited in the Specification clearly demonstrates an “inlay being at least partly penetrated by the foam forming the intermediate layer so that the foam affects a connection of the inlay to the carrier,” as recited in claim 1. (See Specification, ¶ [0008], [0028]). The Examiner further indicates that it is unclear how “an amount of energy absorbed by a release of the intermediate layer with the inlay from the overlapped region of the carrier varies based on an intensity of an opening impact of the airbag,” as recited in claims 1 and 16. Claims 1 and 16 have been amended to recite “an inlay applied to the intermediate layer...wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity.” It is respectfully submitted that the amendment to claims 1 and 16 clearly describes how the overlapped hinged attachment of the intermediate layer and inlay to the carrier facilitates a varying amount of energy absorption. It is further noted that an antecedent basis for the amendment to claims 1 and 16 is found in paragraph [0012] and [0024] of the Specification. It is therefore respectfully requested that a variable energy absorption is provided in the present invention due to the positions and attachments of the intermediate layer, the through-opening, the inlay and the carrier relative to one another. Furthermore, it is also submitted that, contrary to the Examiner’s assertion, a variable energy absorption is not inherent in any layered foam airbag. In light of the above, Applicants respectfully request the withdrawal of the objection to claim 1-16 under 35 U.S.C. § 112, first paragraph.

Claims 1-16 stand objected to under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter regarded as the invention. Specifically, the Examiner has indicated that the limitation of “the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer,” is unclear. It is respectfully submitted that the aforementioned amendment to the drawings, as discussed above with respect to the objection to the drawings, clearly depicts the recited limitation. Claim 3 also stands objected to as being unclear. Claim 3 has been canceled. It is therefore request that the objection to claim 3 be withdrawn. The Examiner has also objected to the limitation regarding variable energy absorption in claims 1 and 16. However, as discussed above with respect to the 35 U.S.C. § 112, first paragraph rejection, claims 1 and 16 have been amended to recite “an inlay applied to the intermediate layer...wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity.” It is respectfully submitted that the amendments to claims 1 and 16 clearly describe the recited features. Applicants therefore respectfully request that the 35 U.S.C. § 112, second paragraph rejection of claim 1-16 be withdrawn for the same reasons discussed above.

Claims 1, 5-8, 12, 15 and 16 stand rejected under 35 U.S.C. § 102(a) as being anticipated by German Patent No. DE 101 35 244 (hereinafter referred to as “DE ‘224”).

Amended claim 1 recites an interior trim part for covering an airbag, comprising “a two-dimensional carrier including a through-opening for the airbag recessed therein; a surface décor; a foam intermediate layer; and an inlay applied to the intermediate layer and covering the through-opening, the inlay projecting beyond an edge of the through-opening on one side to overlap a region of the carrier to form a hinge of an airbag flap formed by the surface décor and the intermediate layer with the inlay, the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam effects a connection of the inlay to the carrier, wherein a distance between the edge of the through-opening and a location up to which

the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity.”

DE ‘224 fails to disclose an “inlay projecting beyond an edge of the through-opening on one side to overlap a region of the carrier to form a hinge of an airbag flap formed by the surface decor and the intermediate layer with the inlay,” as recited in claim 1. Rather, since the closure part 32 of DE ‘224 is only held over the air bag 28 by a pressure applied by the intermediate layer 14 and surface decor 16, the device of DE ‘224 is inherently incapable of meeting this limitation. (See DE ‘224, Abstract, Fig. 2). Specifically, the closure part 32 is not attached to the carrier 10 at any point that would permit a hinged connection. It is therefore respectfully submitted that the system of DE ‘224 not only does not teach a hinged connection but is further incapable of doing so since the closure element 32 is not attached to the carrier 10. It is respectfully submitted that claim 1 is allowable over DE ‘224 for at least this reason.

DE ‘224 also fails to meet the limitation of “wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity,” as recited in claim 1. Specifically, as noted above, the closure element 32 of DE ‘224 is incapable of hingedly separating from the opening 30 of the carrier 10 at all. Thus, the closure element 32 of DE ‘224 is also inherently incapable of separating from the carrier 10 so that a distance between the edge 34 and a location up to which the intermediate layer 14 separates from the carrier 10 is proportional to a force applied thereto. Rather, the closure element 32 of DE ‘224 is configured to completely separate from the carrier 10 in order to permit deployment of the air bag 28 irrespective of the intensity of a force applied thereto. It is therefore respectfully submitted that the device of DE ‘224 fails to disclose the limitation of “wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of

energy absorbed by the separation varies depending on the intensity," as recited in claim 1 and that claim 1 is allowable for at least this additional reason.

DE '224 also fails to disclose "the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam effects a connection of the inlay to the carrier," as recited in claim 1. Rather, the system of DE '224 only shows the closure element 32 situated between the airbag opening 30 and intermediate layer 14. (See DE '224, Abstract, Fig. 2). The closure element 32 of DE '224 does not at least partly penetrate the intermediate layer 14 but rather, only borders it. (*Id.*) It is further submitted that the projections 44 of the closure element 32 also fail to meet the recited limitation of claim 1 since the projections merely abut out of the closure element 32 to increase a surface contact area with the intermediate layer 14. The projections 44 of DE '224 do not "penetrate the foam forming the intermediate layer," as recited in claim 1 but merely engage an outer surface thereof.

It is therefore respectfully submitted that DE '224 fail to disclose "an inlay applied to the intermediate layer and covering the through-opening, *the inlay projecting beyond an edge of the through-opening on one side to overlap a region of the carrier to form a hinge of an airbag flap formed by the surface decor and the intermediate layer with the inlay, the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam effects a connection of the inlay to the carrier*, wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity," as recited in claim 1 and that claim 1 is therefore in condition for allowance. Because claims 5-8, 12, and 15 depend from and therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Amended claim 16 recites limitations substantially similar to claim 1, including an airbag arrangement comprising "an airbag; and an interior trim part covering the airbag, the interior trim

part including a two-dimensional carrier including a through-opening for the airbag recessed therein, a surface décor, a foam intermediate layer and an inlay applied to the intermediate layer and covering the through-opening, *the inlay projecting beyond an edge of the through-opening on one side to overlap a region of the carrier to form a hinge of an airbag flap formed by the surface décor and the intermediate layer with the inlay, the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam affects a connection of the inlay to the carrier*, wherein *a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity.*” It is therefore respectfully submitted that claim 16 is allowable over DE ‘224 for the same reasons noted above with respect to claim 1.

Claims 3, 4, 10 and 11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DE ‘224.

Claims 3, 4, 10, and 11 depend from and therefore include all of the limitations of claim 1. As noted above, DE ‘224 fails to disclose or suggest the limitations of claim 1. It is therefore respectfully submitted that claims 3, 4, 10, and 11 are allowable over DE ‘224 as being dependent on an allowable base claim.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over DE ‘224 in view of Schmidt et al. (U.S. Patent No. 6,612,608).

Claim 9 depends from and therefore include all of the limitations of claim 1. As noted above, DE ‘224 fails to disclose or suggest the limitations of claim 1. Schmidt fails to cure this deficiency . It is therefore respectfully submitted that claim 1 is allowable over DE ‘224 and Schmidt, taken alone or in combination. Claim 9 is therefore also allowable as being dependent on an allowable base claim.

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over DE '224 in view of Kawakubo et al. (U.S. Patent No. 6,447,004).

Claims 13 and 14 depend from and therefore include all of the limitations of claim 1. As noted above, DE '224 fails to disclose or suggest the limitations of claim 1. Kawakubo fails to cure this deficiency . It is therefore respectfully submitted that claim 1 is allowable over DE '224 and Kawakubo, taken alone or in combination. Claims 13 and 14 are therefore also allowable as being dependent on an allowable base claim.

Claims 1-8, 10-12, 15, and 16 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harada et al. (U.S. Patent No. 5,863,062) in view of Hirabayashi (U.S. Patent No. 4,911,471).

It is respectfully submitted that neither Harada nor Hirabayashi teach or suggest an “inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam effects a connection of the inlay to the carrier,” as recited in claim 1. Specifically, the Examiner concedes hat Harada fails to teach this limitation and has referenced Hirabayashi to overcome this deficiency. However, it is respectfully submitted that Hirabayashi also does not teach an inlay “being at least partly penetrated by the foam,” as recited in claim 1. It is unclear what logic the Examiner has used to combine these references since neither teach a viability of penetrating a foam layer into the inlay. It appears that the Examiner has used an improper hindsight reconstruction of the Harada device to overcome the limitations of claim, especially in light of the fact that Harada teaches a door core 31 forming a solidified and rigid bond with the carrier 10. Specifically, since Harado explicitly states that the foam body 35 “solidifies together with these components 21, 31, and 41 to form the instrument panel,” and that the connection formed therebetween is therefore substantially rigid, there would be no reason to include a cloth 13 as taught by Hirabayashi into the device of Harada except to overcome the limitations of claim 1 of the present invention. (See Harada, col. 5, ll. 48-67). Specifically, claim 1 recites that

the inlay is “at least partly penetrated by the foam forming the intermediate layer *so that the foam effects a connection of the inlay to the carrier.*” Harado is already provided with a system that provides a rigid connection of the foam body 35 to the carrier 10. (*Id.*) It is therefore respectfully submitted that the modification proposed by the Examiner constitutes an improper hindsight reconstruction of the invention and is therefore not allowable.

It is further submitted that the modification proposed by the Examiner is not allowable as it renders the Harada device unsatisfactory for its intended purpose. Specifically, Harada teaches an air bag door core 31 configured to cover the air bag A. (*See* Harada, col. 5, ll. 48-67, col. 6, ll. 35-45; Figs. 2-4). The door core 31 is a plate of metal configured to (1) provide a rigid base to permit the injection of foam between the base 21 and the skin 41 to form the foam body 35 and (2) to permit breaking of the foam body 35 when the air bag is inflated. (*Id.*) It is respectfully submitted that replacing the door core 31 of Harada with the cloth 13 of Hirabayashi would be detrimental thereto. Specifically, in one respect, employing the cloth 13 in place of the door core 31 would prevent the insertion of a foam to form the foam body 35. Harado recites that “the foam body 35 is formed from polyurethane foam ingredient between the base 21 and door core 31 and the skin 41 *and solidifies together with these components 21, 31, and 41 to form the instrument panel 10.*” (*Id.*) The door core 31 of Harado is joined at one end to the base via the fitting 37 and, due to its substantially rigid metal properties, is able to withstand a pressure applied by the foaming without deformation. Employing a cloth 13 as taught by Hirabayashi, however, would prevent the injection of a foam body 35 since the pressure applied by the foaming would cause a free end of the cloth 13 (i.e., located adjacent to the breaking facility 42) to retract into the space defined for the air bag A, causing unhardened foam to settle over the air bag A and thus preventing deployment of the air bag A when needed. It is respectfully submitted that employment of a cloth 13 would eliminate the substantially rigid properties assigned to the door core 31 situated over the opening for the air bag A as taught by Harado and would therefore be detrimental thereto for at least this reason.

Furthermore, employment of a cloth 13 in the device of Harado would also prevent

breaking of the foam body 35 when a pressure is applied thereto by the air bag A. Specifically, the air bag door core 31 of Harado is configured so that a free end thereof lies adjacent to the breaking facility 42. Thus, by basic properties of physics, a pressure applied anywhere on the door core 31 (i.e., by the inflation of the air bag A) is concentrated on the free non-hinged end, as understood by those of skill in the art. The free end of the door core 31 is located adjacent the breaking facility 42 so that the concentrated force can be applied to the breaking facility 42 to permit a rupture of the foam body 35 at this point. (See Harado, col. 6, ll. 1-45; Fig. 2). If the door core 31 were replaced with a cloth 13, the force applied by the air bag A would be evenly distributed over the surface thereof, thus preventing the inflation of the air bag A or, in an alternate scenario, causing rupture of the foam body 35 at an approximate center of the air bag A where a force concentration would be highest. It is therefore respectfully submitted that employment of the cloth 13 of Hirabayashi in the device of Harado would be detrimental thereto for at least this additional reason and that the modification is therefore not allowable.

Still further, it is submitted that employing the cloth 13 of Hirabayashi in addition to the door core 31 of Harada would also fail to overcome the limitations of claim 1 which recite “*an inlay applied to the intermediate layer and covering the through-opening,*” thus indicating that the inlay must be in contact with *both* the intermediate layer *and* the through-opening. It is therefore respectfully submitted that the modification proposed by the Examiner fails to overcome the limitations of claim 1 for at least this additional reason.

It is therefore respectfully submitted that Harado and Hirabayashi, taken alone or in combination, fail to teach or suggest “*an inlay applied to the intermediate layer and covering the through-opening, the inlay projecting beyond an edge of the through-opening on one side to overlap a region of the carrier to form a hinge of an airbag flap formed by the surface decor and the intermediate layer with the inlay, the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam effects a connection of the inlay to the carrier, wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an*

opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity,” as recited in claim 1 and that claim 1 is therefore in condition for allowance. Because claims 2, 4-8,10-12, and 15 depend from and therefore include all of the limitations of claim 1, it is respectfully submitted that these claims are also allowable.

Claim 16 recites limitations substantially similar to claim 1, including an airbag arrangement comprising “an airbag; and an interior trim part covering the airbag, the interior trim part including a two-dimensional carrier including a through-opening for the airbag recessed therein, a surface décor, a foam intermediate layer and an inlay applied to the intermediate layer and covering the through-opening, *the inlay projecting beyond an edge of the through-opening on one side to overlap a region of the carrier to form a hinge of an airbag flap formed by the surface décor and the intermediate layer with the inlay, the inlay furthermore being at least partly penetrated by the foam forming the intermediate layer so that the foam affects a connection of the inlay to the carrier, wherein a distance between the edge of the through-opening and a location up to which the intermediate layer with the inlay separates from the carrier depends on an intensity of an opening impact of the airbag so that an amount of energy absorbed by the separation varies depending on the intensity.*” It is therefore respectfully submitted that claim 16 is allowable over Harada and Hirabayashi, taken alone or in combination, for the same reasons noted above with respect to claim 1.

Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Harada in view of Hirabayashi in further view of Schmidt.

Claim 9 depends from and therefore include all of the limitations of claim 1. As noted above, the combination of Harada and Hirabayashi is not allowable. Schmidt fails to cure this deficiency . It is therefore respectfully submitted that claim 1 is allowable over Harada, Hirabayashi, and Schmidt, taken alone or in any combination. Claim 9 is therefore also allowable as being dependent on an allowable base claim.

Claims 13 and 14 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Harada in view of Hirabayashi in further view of Kawakubo.

Claims 13 and 14 depend from and therefore include all of the limitations of claim 1. As noted above, the combination of Harada and Hirabayashi is not allowable. Kawakubo fails to cure this deficiency . It is therefore respectfully submitted that claim 1 is allowable over Harada, Hirabayashi, and Kawakubo, taken alone or in any combination. Claims 13 and 14 are therefore also allowable as being dependent on an allowable base claim.

It is therefore respectfully submitted that all of the presently pending claims are in condition for allowance. All issues raised by the Examiner having been addressed, an early and favorable action on the merits is earnestly solicited.

Respectfully submitted,

Dated: May 4, 2009

By:

Oleg E. Kaplun, Esq. (Reg. No. 45,559)
Fay Kaplun & Marcin, LLP
150 Broadway, Suite 702
New York, NY 10038
Tel: (212) 619-6000
Fax: (212) 619-0276

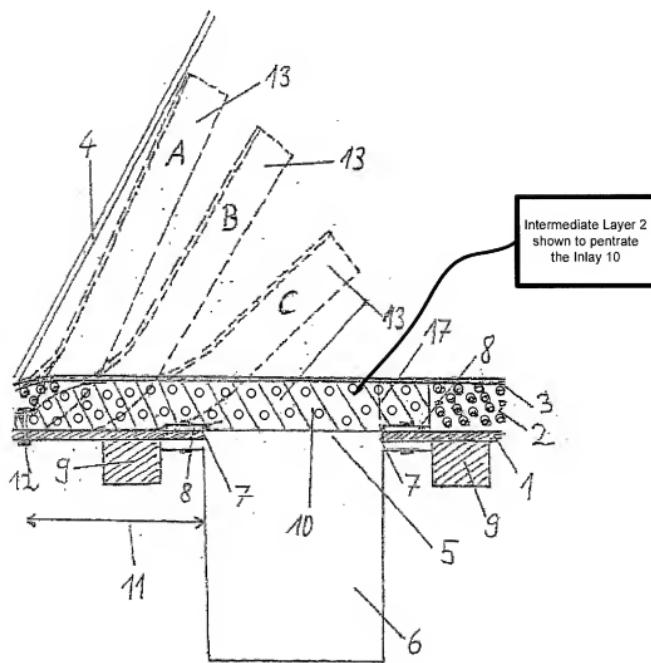


Fig. 1